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July 24, 2017

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554
VIA FCC ELECTRONIC COMMENT FILING SYSTEM

Re **CC Docket No. 02-6**
Petition for Waiver
FCC Form 471 No. 171049168
Applicant: Rochester STEM Academy, BEN 16071705

Dear Ms. Dortch,

With this letter Rochester STEM Academy ("RSA") requests a waiver of the FCC Form 471 filing window deadline for Funding Year 2017 under the schools and libraries universal service support mechanism (E-Rate).

Background

RSA is among the very first STEM (Science, Technology, Engineering, and Math) high schools in Minnesota. RSA creates multiple community partnerships to expose its students to STEM through internships, apprenticeships, mentorships, field trips, specialized programming, enrichment, and by continually bringing specialists working in STEM fields into its classrooms.

We do our best to comply with the rules of the E-Rate program, but in this case we may have fallen short in finishing the application and certification process on time.

General analysis

According to USAC records, RSA completed the filing of its FCC Form 471 on 5/25/2017 at 11:55 PM Central Time, within 14 days of the filing window deadline. To the best of our knowledge, our E-rate funding application is otherwise in full compliance with all FCC rules and USAC requirements.

In *Academy for Academic Excellence*¹, the Wireline Competitions Bureau ("Bureau") found that in cases where a delayed Form 471 filing came as a result of circumstances

¹ See *Academy for Academic Excellence Order*, 22 FCC Rcd 4747 (2007).

beyond the control of the applicant, the complete rejection of these applications was not warranted, given that the violation at issue was procedural, not substantive. The Bureau found further that rigid adherence to filing procedures would not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

In *Acorn Public Library District*², the Bureau found that a delayed Form 471 filing of not more than 14 days after the filing window deadline was not likely to impede USAC's ability to administer the E-Rate program. The Bureau found that the violation at issue was procedural, not substantive, and the Bureau found further that complete rejection of these applications is not warranted. The Bureau also found that (in the absence of any evidence of waste, fraud, or abuse, misuse of funds, or a failure to adhere to core program requirements and) because the FCC Form 471 was filed within 14 days after the filing window deadline, it was in the public interest to waive the FCC Form 471 deadline.

And in *Academy of Math and Science*³, the Federal Communications Commission reiterated that filing of Form 471 late but within 14 days of the filing window deadline is a special circumstance which justifies the grant of a waiver. The Bureau has applied this precedent in several subsequent orders⁴.

Analysis – effect of precise filing time

We now recognize that USAC likely considers our filing to have been submitted on May 26 at 12:55 A.M. (not May 25), as USAC is based in the Eastern time zone. We ask that nevertheless the FCC grant us the waiver we seek.

As we noted above, the Bureau has found that a delayed Form 471 filing of not more than 14 days after the filing window deadline is not likely to impede USAC's ability to administer the E-Rate program. It is inconceivable that a filing *just 55 minutes after midnight* (in the Eastern time zone) would impede USAC's processing of the form in any aspect whatsoever compared to the effect had the form been filed by midnight, since USAC staff would not be at work between midnight and 1 A.M.

Taking into account the Bureau's finding in *Acorn* and the fact that no processing of our filing would have occurred between midnight and 1 A.M., our filing meets the *Acorn*

² See *Acorn Public Library District Order*, 23 FCC Rcd 15474 (2008).

³ See *Academy of Math and Science Order*, 25 FCC Rcd 9256 (2010).

⁴ See *Argos Public Library Order*, 25 FCC Rcd 16109 (2010); *Al-Noor School Order*, 26 FCC Rcd 5792 (2011); *Beaver Area Memorial Library Order*, 26 FCC Rcd 10317 (2011); *All Saints Elementary School Order*, 26 FCC Rcd 13107 (2011); *Bais Chaya Mushka Order*, 27 FCC Rcd 195 (2012); *Anderson Elementary School Order*, 27 FCC Rcd 5319 (2012); *Acadia Parish School Board Head Start Program Order*, 27 FCC Rcd 11033 (2012); *Abbotsford School District Order*, 27 FCC Rcd 15299 (2012); *A.C.E. Charter High School Order*, 27 FCC Rcd 15907 (2012); *Ashtabula Area City Schools Order*, 28 FCC Rcd 4051 (2013); *Academy of Accelerated Learning Order*, 28 FCC Rcd 6947 (2013); *Allenstown Public Library Order*, 28 FCC Rcd 11198 (2013); *Albert Wisner Public Library Order*, 28 FCC Rcd 16900 (2013).

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standard of “not likely to impede USAC’s ability to administer the E-Rate program”, and our waiver petition should be granted.

Analysis – effect of denial

Finally, we note that denial of our funding request would impose severe hardship upon RSA, and the effect of such denial would be a profound adverse impact upon the educational services we provide for our students. The consequences of a denial of funding would not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

Request for Waiver

For the reasons stated in this letter, RSA respectfully requests that the Federal Communications Commission grant a waiver of the FCC Form 471 filing window deadline for RSA’s Funding Year 2017 E-Rate funding application.

ROCHESTER STEM ACADEMY
Bryan Rossi, Ph.D.

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Executive Director